

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CEDAR PARK ASSEMBLY OF GOD OF)
KIRKLAND, WASHINGTON,)
)
Plaintiff,)
)
v.)
)
MYRON “MIKE” KREIDLER, in his official)
capacity as Insurance Commissioner for the State)
of Washington; JAY INSLEE, in his official)
capacity as Governor of the State of Washington,
)
Defendants.

Civil No. 3:19-cv-05181

**JOINT STATUS REPORT AND
DISCOVERY PLAN**

Pursuant to this Court’s March 26, 2019 Order (ECF No. 17), the parties hereby submit the
Joint Status Report and Discovery Plan.

1. Statement of the Nature and Complexity of the Case

Plaintiff Cedar Park Assembly of God of Kirkland, Washington’s First Amended Verified
Complaint challenges the constitutionality of Senate Bill 6219, codified at RCW § 48.43.072 and
RCW § 48.43.073, and the statutory scheme implementing it. SB 6219 requires health plans issued
after January 1, 2019 to include coverage for voluntary sterilization procedures and all FDA-
approved contraceptive drugs and devices, and if the health plan includes coverage for maternity
care or services, the health plan must provide substantially equivalent coverage for abortion.

1 Plaintiff Cedar Park is a non-profit Christian church located in Bothell, Washington. Cedar
 2 Park holds and actively professes historic and orthodox Christian beliefs on the sanctity of human
 3 life, and therefore objects to the participating in, facilitating access to, and providing payment for
 4 abortion in any way. Accordingly, it is Plaintiff's position that SB 6219 compels the Church to
 5 provide insurance coverage or otherwise provide payment for items directly at odds with their
 6 religious beliefs, in violation of the U.S. Constitution.

7 Plaintiff asserts four counts: (1) Violation of the Free Exercise Clause of the First
 8 Amendment, (2) Violation of the Equal Protection Clause of the Fourteenth Amendment, (3)
 9 Violation of the Establishment Clause of the First Amendment, and (4) Violation of the religious
 10 autonomy guaranteed by the religion clauses of the First Amendment.

11 The Defendants disagree with Plaintiff's claims. The Defendants take the position that the
 12 Plaintiff can assert a religious objection under RCW 48.43.065(3), so that it will not have to
 13 purchase coverage for services to which it has a religious objection.

14 **2. Deadline for Additional Parties**

15 The parties agree that additional parties will be joined by May 1, 2020.

16 **3. Consent to Proceeding Before Magistrate Judge: No**

17 **4. Discovery Plan.** The parties' discovery plan, incorporating the parties' views and
 18 proposals on all items in Fed. R. Civ. P. 26(f)(3), is below

19 **(A) Initial Disclosures**

20 The Rule 26(f) conference occurred on June 7, 2019. Pursuant to this Court's March 26,
 21 2019 Order, the parties exchanged initial disclosures on June 17, 2019.

1 **(B) Subjects, timing, and potential phasing of discovery**

2 Plaintiff wishes to obtain discovery on the following subjects: the enactment of Senate Bill
3 6219; Defendants' rules, regulations, policies, and procedures concerning the enforcement of SB
4 6219; Defendants' interpretation of RCW § 48.43.065; and Defendants' rules, regulations,
5 policies, and procedures concerning the enforcement of RCW § 48.43.065.

6 Defendants wish to obtain discovery on the following subjects: Plaintiff's efforts to
7 exercise its religious accommodation; Plaintiff's past and present insurance policies, including
8 enrollment and claim information; Plaintiff's rules, policies, bylaws, and procedures concerning
9 obtaining, funding, and implementing its religious beliefs and its health insurance policies;
10 Plaintiff's religious objection to abortion and certain contraceptives; and Plaintiff's provision of
11 health care coverage to its employees.

12 As to timing of discovery, please see proposed discovery schedule at Section 6, below. The
13 parties do not believe discovery should be conducted in phases or be limited to or focused on a
14 particular issue.

15 **(C) Electronically stored information**

16 The parties will report to each other generally regarding the nature, location, and scope of
17 ESI in their possession. The parties have agreed to use the Model Agreement Regarding Discovery
18 of Electronically Stored Information.

19 **(D) Privilege issues**

20 The parties agree to redact documents that may be partially privileged. The parties will
21 produce privilege logs recording any responsive materials that are withheld on grounds of attorney-
22 client privilege, attorney work-product privilege, or any other applicable privilege or protection.
23 Privilege logs will be produced at the time of the document production to which they relate.

1 **(E) Proposed limitations on discovery**

2 The parties do not anticipate the need for any changes or limitations on discovery at this
3 time, but reserve the right to seek modifications in the future.

4 **(F) Need for any discovery related orders**

5 The parties do not currently have any need for discovery related orders.

6 **5. The parties views, proposals, and agreements on all items set for in Local Civil Rule**
7 **26(f)(1).**

8 **(A) Prompt case resolution**

9 Because this case involves a federal constitutional challenge to a Washington statute, it is
10 unlikely that the parties will be able to reach a settlement. Plaintiff desires a Court order declaring
11 SB 6219 unconstitutional, and for Defendants and their agents to be permanently enjoined from
12 enforcing SB 6219. Defendants will not agree to these terms.

13 **(B) Alternative dispute resolution**

14 At this time, the parties have not explored the options available under the Alternative
15 Dispute Resolution Program. Because this case concerns a federal constitutional challenge to a
16 state statute, it is unlikely the alternative dispute resolution would be fruitful.

17 **(C) Related cases**

18 There are currently no related cases of which the parties are aware.

19 **(D) Discovery management**

20 The parties agree that discovery requests, responses, initial disclosures, deposition notices,
21 and other case-related materials not filed with this Court can be served electronically via e-mail.
22 See also paragraph 4(C) above.

1 **(E) Anticipated discovery sought**

2 Plaintiff wishes to obtain discovery on the following subjects: the enactment of Senate Bill
3 6219; Defendants' rules, regulations, policies, and procedures concerning the enforcement of SB
4 6219; Defendants' interpretation of RCW § 48.43.065; and Defendants' rules, regulations,
5 policies, and procedures concerning the enforcement of RCW § 48.43.065.

6 Defendants wish to obtain discovery on the following subjects: Plaintiff's efforts to
7 exercise its religious accommodation; Plaintiff's past and present insurance policies, including
8 enrollment and claim information; Plaintiff's rules, policies, bylaws, and procedures concerning
9 obtaining, funding, and implementing its religious beliefs and its health insurance policies;
10 Plaintiff's religious objection to abortion and certain contraceptives; and Plaintiff's provision of
11 health care coverage to its employees.

12 **(F) Phasing motions**

13 The parties do not believe that the phasing of motions is necessary at this current time.

14 **(G) Preservation of discoverable information**

15 The parties are preserving discoverable information. No further Court intervention is
16 needed at this time.

17 **(H) Privilege issues**

18 The parties agree that information produced in discovery that is protected as privileged or
19 work product shall be immediately returned to the producing party, sequestered, or destroyed,
20 except that the receiving party may retain a copy of the information solely for the purpose of
21 challenging the designation of privilege or work product pursuant to Fed. R. Civ. P. 26(b)(5).
22 Inadvertent production shall not constitute a waiver of such protection, if such information appears
23
24

1 on its face to have been inadvertently produced, or the producing party provides notice within a
2 reasonable amount of time after the inadvertent production.

3 **(I) Model Protocol for Discovery of ESI**

4 The parties will use to Model Protocol for Discovery of ESI.

5 **(J) Alternatives to Model Protocol**

6 The parties will use to Model Protocol for Discovery of ESI.

7 **6. Date by which discovery can be completed**

8 The parties propose the following discovery deadlines:

9 A. Fact discovery completed by: April 30, 2020

10 B. Opening expert reports under FRCP 26(a)(2) due: February 28, 2020

11 C. Rebuttal expert reports due: April 15, 2020

12 D. Expert discovery completed by: March 30, 2020

13 E. All dispositive motions must be filed by: June 1, 2020

14 **7. Bifurcation**

15 The parties agree that bifurcation is not necessary.

16 **8. Pretrial Statements**

17 The parties believe that the pretrial statements and pretrial order called for by the Local
18 Rules should be required.

19 **9. Suggestions for Shortening or Simplifying the Case**

20 At present, the parties do not have any additional suggestions for simplifying the case.

21 **10. Trial Date**

22 The parties believe the case will be ready for trial as of November 1, 2020.
23
24

1 **11. Jury or Non-Jury Trial.**

2 Trial will not be by jury.

3 **12. Trial Days**

4 The parties believe that approximately 5 trial days are required.

5 **13. Trial Counsel**

6 The names, addresses, and telephone numbers of all trial counsel as follows:

7 **For Plaintiff:**

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14. Trial Date Conflicts

At this time, counsel are not aware of any dates that would pose complications regarding setting a trial date.

15. Service

Plaintiff has effected service on Defendants.

16. Scheduling Conference

The parties do not anticipate requiring a scheduling conference with the Court at this time.

17. Corporate Disclosure Statements

Plaintiff Cedar Park filed its corporate disclosure statement on June 21, 2019 at ECF No. 39.

Respectfully submitted this 24th day of June, 2019,

s/Kristen K. Waggoner

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